

S T A T E   O F   N E W   Y O R K

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3337--A

2009-2010 Regular Sessions

I N   S E N A T E

March 16, 2009

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Introduced by Sen. VOLKER -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the real property tax law, in relation to establishing a conservation agreement exemption in certain towns

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. The real property tax law is amended by adding a new  
2     section 491 to read as follows:  
3     S 491. CONSERVATION EASEMENT AGREEMENT EXEMPTION; CERTAIN TOWNS.     1.  
4     APPLICABILITY. A TOWN HAVING A POPULATION OF NOT LESS THAN TWENTY-SEVEN  
5     THOUSAND SIX HUNDRED AND NOT MORE THAN TWENTY-SEVEN THOUSAND SEVEN  
6     HUNDRED THAT IS LOCATED IN A COUNTY HAVING A POPULATION OF NOT LESS THAN  
7     NINE HUNDRED FIFTY THOUSAND AND NOT MORE THAN NINE HUNDRED FIFTY-ONE  
8     THOUSAND, BASED UPON THE LATEST DECENNIAL FEDERAL CENSUS, IS HEREBY  
9     AUTHORIZED TO ADOPT A LOCAL LAW TO PROVIDE THAT REAL PROPERTY WHOSE  
10    INTERESTS OR RIGHTS HAVE BEEN ACQUIRED FOR THE PURPOSE OF THE PRESERVA-  
11    TION OF AN OPEN SPACE OR AN OPEN AREA, AS AUTHORIZED IN SECTION TWO  
12    HUNDRED FORTY-SEVEN OF THE GENERAL MUNICIPAL LAW, MAY BE PARTIALLY  
13    EXEMPT FROM LOCAL REAL PROPERTY TAXATION, PROVIDED THAT THE OWNER OR  
14    OWNERS OF SUCH REAL PROPERTY ENTER INTO A CONSERVATION EASEMENT AGREE-  
15    MENT WITH THE MUNICIPALITY IN ACCORDANCE WITH THE PROCEDURES SPECIFIED  
16    IN SUBDIVISION THREE OF THIS SECTION. A COUNTY HAVING A POPULATION OF  
17    NOT LESS THAN NINE HUNDRED FIFTY THOUSAND AND NOT MORE THAN NINE HUNDRED  
18    FIFTY-ONE THOUSAND, BASED UPON THE LATEST DECENNIAL FEDERAL CENSUS MAY,  
19    BY LOCAL LAW, AND ANY SCHOOL DISTRICT, ALL OR PART OF WHICH IS LOCATED  
20    IN A TOWN HAVING A POPULATION OF NOT LESS THAN TWENTY-SEVEN THOUSAND SIX  
21    HUNDRED AND NOT MORE THAN TWENTY-SEVEN THOUSAND SEVEN HUNDRED THAT IS  
22    LOCATED IN A COUNTY HAVING A POPULATION OF NOT LESS THAN NINE HUNDRED  
23    FIFTY THOUSAND AND NOT MORE THAN NINE HUNDRED FIFTY-ONE THOUSAND, MAY,

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 BY RESOLUTION, EXEMPT SUCH PROPERTY FROM ITS TAXATION IN THE SAME MANNER  
2 AND TO THE SAME EXTENT AS SUCH TOWN HAS DONE.

3 2. DEFINITIONS. FOR THE PURPOSE OF THIS SECTION, THE FOLLOWING TERMS  
4 SHALL HAVE THE FOLLOWING MEANINGS: "OPEN SPACE" OR "OPEN AREA" MEANS  
5 ANY SPACE OR AREA CHARACTERIZED BY NATURAL SCENIC BEAUTY OR WHOSE EXIST-  
6 ING OPENNESS, NATURAL CONDITION OR PRESENT STATE OF USE, IF RETAINED,  
7 WOULD ENHANCE THE PRESENT OR POTENTIAL VALUE OF ABUTTING OR SURROUNDING  
8 URBAN DEVELOPMENT OR WOULD MAINTAIN OR ENHANCE THE CONSERVATION OF  
9 NATURAL OR SCENIC RESOURCES. FOR THE PURPOSES OF THIS DEFINITION,  
10 "NATURAL RESOURCES" SHALL INCLUDE, BUT NOT BE LIMITED TO, AGRICULTURAL  
11 LANDS DEFINED AS OPEN LANDS ACTUALLY USED IN BONA FIDE AGRICULTURAL  
12 PRODUCTION.

13 3. PROCEDURES FOR OBTAINING A CONSERVATION EASEMENT AGREEMENT. (A)  
14 ANY OWNER OR OWNERS OF LAND MAY SUBMIT A PROPOSAL TO THE TOWN BOARD OF A  
15 TOWN HAVING A POPULATION OF NOT LESS THAN TWENTY-SEVEN THOUSAND SIX  
16 HUNDRED AND NOT MORE THAN TWENTY-SEVEN THOUSAND SEVEN HUNDRED THAT IS  
17 LOCATED IN A COUNTY HAVING A POPULATION OF NOT LESS THAN NINE HUNDRED  
18 FIFTY THOUSAND AND NOT MORE THAN NINE HUNDRED FIFTY-ONE THOUSAND, BASED  
19 UPON THE LATEST DECENNIAL FEDERAL CENSUS, FOR THE GRANTING OF INTEREST  
20 OR RIGHTS IN REAL PROPERTY FOR THE PRESERVATION OF OPEN SPACE OR AREAS.  
21 SUCH PROPOSAL SHALL BE SUBMITTED IN SUCH A MANNER AND FORM AS MAY BE  
22 PRESCRIBED BY THE CONSERVATION BOARD OF SUCH TOWN.

23 (B) UPON RECEIPT OF SUCH PROPOSAL, THE TOWN BOARD SHALL CONVEY THE  
24 PROPOSAL TO THE CONSERVATION BOARD OF SUCH TOWN. SUCH CONSERVATION BOARD  
25 SHALL INVESTIGATE THE AREA TO DETERMINE IF THE PROPOSAL WOULD BE OF  
26 BENEFIT TO THE PEOPLE OF THE TOWN AND MAY NEGOTIATE THE TERMS AND CONDI-  
27 TIONS OF THE OFFER. IF THE CONSERVATION BOARD DETERMINES THAT IT IS IN  
28 THE PUBLIC INTEREST TO ACCEPT SUCH PROPOSAL, IT SHALL RECOMMEND TO THE  
29 TOWN BOARD THAT IT HOLD A PUBLIC HEARING FOR THE PURPOSE OF DETERMINING  
30 WHETHER OR NOT THE TOWN SHOULD ACCEPT SUCH PROPOSAL.

31 (C) THE TOWN BOARD SHALL, WITHIN THIRTY DAYS OF RECEIPT OF SUCH ADVI-  
32 SORY OPINION, HOLD A PUBLIC HEARING CONCERNING SUCH PROPOSAL AT A PLACE  
33 WITHIN THE TOWN. AT LEAST TEN DAYS NOTICE OF THE TIME AND PLACE OF SUCH  
34 HEARING SHALL BE PUBLISHED IN A PAPER OF GENERAL CIRCULATION IN SUCH  
35 TOWN, AND A WRITTEN NOTICE OF SUCH PROPOSAL SHALL BE GIVEN TO ALL ADJA-  
36 CENT PROPERTY OWNERS AND TO ANY MUNICIPALITY WHOSE BOUNDARIES ARE WITHIN  
37 FIVE HUNDRED FEET OF THE BOUNDARIES OF SAID PROPOSED AREA, AND TO THE  
38 SCHOOL DISTRICT IN WHICH IT IS LOCATED.

39 (D) THE TOWN BOARD, AFTER RECEIVING THE REPORTS OF THE CONSERVATION  
40 BOARD OF A TOWN HAVING A POPULATION OF NOT LESS THAN TWENTY-SEVEN THOU-  
41 SAND SIX HUNDRED AND NOT MORE THAN TWENTY-SEVEN THOUSAND SEVEN HUNDRED  
42 THAT IS LOCATED IN A COUNTY HAVING A POPULATION OF NOT LESS THAN NINE  
43 HUNDRED FIFTY THOUSAND AND NOT MORE THAN NINE HUNDRED FIFTY-ONE THOU-  
44 SAND, BASED UPON THE LATEST DECENNIAL FEDERAL CENSUS, AND AFTER SUCH  
45 PUBLIC HEARING, MAY ADOPT THE PROPOSAL OR ANY MODIFICATION THEREOF IT  
46 DEEMS APPROPRIATE OR MAY REJECT IT IN ITS ENTIRETY.

47 (E) IF SUCH PROPOSAL IS ADOPTED BY THE TOWN BOARD, IT SHALL BE  
48 EXECUTED BY THE OWNER OR OWNERS IN WRITTEN FORM AND IN A FORM SUITABLE  
49 FOR RECORDING IN THE COUNTY CLERK'S OFFICE.

50 (F) SUCH AGREEMENT MAY NOT BE CANCELED BY EITHER PARTY. HOWEVER, THE  
51 OWNER OR OWNERS THEREOF MAY PETITION THE TOWN BOARD FOR CANCELLATION  
52 UPON GOOD CAUSE SHOWN, AND SUCH CANCELLATION MAY BE GRANTED ONLY UPON  
53 PAYMENT OF THE PENALTIES PROVIDED IN THIS SECTION.

54 4. COMPUTATION. (A) AN EXEMPTION GRANTED PURSUANT TO THIS SECTION  
55 SHALL COMMENCE AS OF THE EFFECTIVE DATE OF THE CONSERVATION EASEMENT

1 AGREEMENT, AND SHALL TERMINATE UPON THE EXPIRATION OR TERMINATION OF  
2 SUCH CONSERVATION EASEMENT AGREEMENT.

3 (B) THE FOLLOWING TABLE SHALL ILLUSTRATE THE COMPUTATION OF THE  
4 EXEMPTION:

| 5 COMMITMENT     | PERCENTAGE OF EXEMPTION |
|------------------|-------------------------|
| 6 15 TO 29 YEARS | 50%                     |
| 7 30 TO 49 YEARS | 75%                     |
| 8 50 TO 75 YEARS | 85%                     |
| 9 PERPETUAL      | 90%                     |

10 SUCH EXEMPTION SHALL BE GRANTED ONLY UPON APPLICATION BY THE OWNER OR  
11 OWNERS OF SUCH REAL PROPERTY ON A FORM PRESCRIBED BY THE STATE BOARD.  
12 SUCH APPLICATION SHALL BE FILED WITH THE ASSESSOR OF THE TOWN ON OR  
13 BEFORE THE TAXABLE STATUS DATE OF SUCH TOWN.

14 (C) IF SATISFIED THAT THE APPLICANT IS ENTITLED TO AN EXEMPTION PURSU-  
15 ANT TO THIS SECTION, THE ASSESSOR SHALL APPROVE THE APPLICATION AND SUCH  
16 REAL PROPERTY SHALL THEREAFTER BE EXEMPT FROM TAXATION AND SPECIAL AD  
17 VALOREM LEVIES AS PROVIDED IN THIS SECTION COMMENCING WITH THE ASSESS-  
18 MENT ROLL PREPARED ON THE BASIS OF THE TAXABLE STATUS DATE. THE  
19 ASSESSED VALUE OF ANY EXEMPTION GRANTED PURSUANT TO THIS SECTION SHALL  
20 BE ENTERED BY THE ASSESSOR ON THE ASSESSMENT ROLL WITH THE TAXABLE PROP-  
21 ERTY, WITH THE AMOUNT OF THE EXEMPTION SHOWN IN A SEPARATE COLUMN.

22 (D) WHENEVER A CONSERVATION EASEMENT ENCUMBERS ONLY A PORTION OF A  
23 PARCEL, THE ASSESSOR SHALL HENCEFORTH ENTER THAT PORTION OF THE PARCEL  
24 ENCUMBERED BY SUCH EASEMENT AS A SEPARATE PARCEL ON ALL SUBSEQUENT  
25 ASSESSMENT ROLLS.

26 5. PENALTIES FOR OFFENSES. IF THERE IS A VIOLATION OF THE TERMS AND  
27 CONDITIONS OF THE CONSERVATION EASEMENT AGREEMENT OR IF SUCH CONSERVA-  
28 TION EASEMENT AGREEMENT IS CANCELED BY THE TOWN BOARD UPON PETITION,  
29 THEN THE OWNER OR OWNERS OF SUCH PROPERTY MUST PAY TO THE TOWN, THE  
30 FOLLOWING AMOUNTS:

31 (A) ALL TAXES ABATED PURSUANT TO THE CONSERVATION EASEMENT AGREEMENT,  
32 AS LIMITED BY THE REMAINDER OF THIS SECTION, INCLUDING, IF APPLICABLE,  
33 THOSE TAXES IMPOSED BY THE COUNTY, TOWN, SCHOOL DISTRICTS AND ALL  
34 SPECIAL IMPROVEMENT DISTRICTS AND OTHER TAXING UNITS TO WHICH THE PROP-  
35 ERTY IS SUBJECT. REPAYMENT OF THE AFOREMENTIONED ABATED TAXES SHALL BE  
36 EQUAL TO FIVE TIMES THE TAXES SAVED IN THE LAST YEAR IN WHICH THE LAND  
37 BENEFITED FROM A CONSERVATION EASEMENT AGREEMENT EXEMPTION, PLUS INTER-  
38 EST OF SIX PERCENT PER YEAR COMPOUNDED ANNUALLY FOR EACH YEAR IN WHICH  
39 AN EXEMPTION WAS GRANTED, NOT EXCEEDING FIVE YEARS.

40 (B) PAYMENTS SHALL BE ADDED BY OR ON BEHALF OF EACH TAXING JURISDIC-  
41 TION TO THE TAXES LEVIED ON THE ASSESSMENT ROLL PREPARED ON THE BASIS OF  
42 THE FIRST TAXABLE STATUS DATE AFTER THERE IS A VIOLATION OF THE TERMS  
43 AND CONDITIONS OF THE CONSERVATION EASEMENT OR SUCH CONSERVATION EASE-  
44 MENT AGREEMENT IS CANCELED.

45 S 2. This act shall take effect immediately.